

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

WENDELL TANGARO,
Plaintiff,

vs.

JOSEPH BOTELHO, COUNTY OF
HAWAI'I, AND JOHN DOES 1-10,

Defendants.

Civil. No. 03-00211 DAE/LEK

DECLARATION OF JOSEPH
BOTELHO

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Pursuant to 20 U.S.C. §1746, Joseph Botelho declares the following:

1. That I am employed as a police officer with the County of Hawai'i.
2. That I am the above-mentioned defendant in this case.
3. On April 17, 2002, I responded to a report of a theft in progress at the Laundromat located on Shipman Street.
4. Upon my arrival, I parked my vehicle in the roadway on the passenger side of the sedan, exited my vehicle and approached Officer Amuimuia and Justin Aoki ("Aoki") who were standing near the passenger door of the sedan. Aoki and the sedan he was located in fit the description of the vehicle and suspect in the theft in progress case.
5. As I approached Officer Amuimuia and Aoki's position I noticed another male lying in the back seat of the sedan.
6. I noticed a male later identified as Roger Starbuck ("Starbuck") standing at the entrance to the Laundromat. Officer Amuimuia left Aoki with me and walked over to Starbuck.
7. I asked Aoki to step to the rear of the sedan and began to question

Aoki about the reported incident. I realized that I did not have my notebook to take notes, informed Aoki to remain at the rear of the sedan and returned to my subsidized police vehicle to retrieve my notebook.

8. While at my vehicle, I noticed that Aoki had returned to the driver's seat of the sedan and appeared to be talking to the male lying on the back seat of the sedan.

9. The male lying in the back seat of the sedan, later identified as Wendell Tangaro ("Tangaro"), exited the sedan, yanked Aoki out of the driver's seat of the sedan, entered the driver's seat and shut the driver's side door.

10. I approached the passenger side door of the sedan and attempted to open the passenger door but Tangaro reached over and locked the passenger door before I could open the door.

11. I then reached through the partially open window of the passenger door to unlock the door that Tangaro had just locked.

12. Tangaro started the sedan, revved the engine and accelerated the vehicle forward slightly. Being cautious not to get my hand caught in the window and dragged along the road, I removed my hand from the sedan window.

13. Tangaro revved the engine again, accelerated in reverse screeching the tires and turned the sedan as he reversed.

14. I stepped back as Tangaro reversed so as not to be struck by the front passenger corner of the sedan as it reversed and turned.

15. Tangaro's action of reversing and turning the vehicle, placed me directly in the path of the sedan when Tangaro stopped the vehicle.

16. I moved to my left to get out of the path of the vehicle and yelled for Tangaro to stop.

17. Tangaro revved the engine of the vehicle and began to accelerate forward.

18. I continued to move to my left, to get out of the path of the sedan yelling for Tangaro to stop, but the sedan continued to accelerate forward towards me.

19. When the sedan was within five feet of my location and I felt that I could not get out of the path of the sedan, fearing that I would be struck by the accelerating sedan, I drew my firearm and fired once at the sedan.

20. The bullet went through the center of the front windshield of the sedan striking Tangaro in the neck.

21. Once I fired the first shot, the sedan stopped moving forward and no additional shots were fired.

22. The sedan slowly rolled forward and came to rest against the curb of Shipman Street striking a parking meter.

23. I was appointed as a police officer on February 16, 1982.

24. I was trained in the use of firearms and was utilizing the authorized 9MM sidearm issued by the Hawai'i County Police Department for which I am qualified.

I declare under penalty of law that the foregoing is true and accurate.

Dated: Hilo, Hawai'i, JAN 06 2006.


JOSEPH BOTELHO